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OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
P.O. BOX 37428
RALEIGH NC 27627

In re Application of :
Steven L. Worm et al :DECISION GRANTING FILING
Application No. 10/695,544 :DATE OF October 28, 2003
Filed: October 28, 2003 :
Attorney Docket No. 5697-39DV :

This is a decision on the petition under 37 CFR 1.10(c), filed February 23, 2004, and supplemented on December 21, 2004, requesting that the above-identified application be accorded a filing date of October 28, 2003, rather than the presently accorded date of October 29, 2003.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on October 28, 2003 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express Mail Label No. EV318416404US. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal." Additionally, a copy of the USPS Intranet Track Confirmation verifies the acceptance date as October 28, 2003 in Raleigh NC, for Express Mail Label No. EV318416404US.

In view of the above, it is concluded that the application was deposited as "Express Mail" with the USPS on October 28, 2003.

The petition is granted.

The application file is being referred to the Office of Initial Patent Examination for processing with a filing date of **October 28, 2003**, and for the mailing of a corrected Filing Receipt.

Telephone inquiries specific to this decision on petition should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy